

## Testimony in Opposition to HB 6887 “An Act Concerning Certificates of Merit”

My name is Dr. Rocco Orlando and I am presently Senior Vice President and Chief Medical Officer of Hartford HealthCare. In addition to my executive responsibilities, I continue to practice general surgery, having served the Greater Hartford community as a practicing surgeon for nearly 30 years. Hartford HealthCare operates 4 acute care general hospitals – Hartford Hospital, the Hospital of Central Connecticut, Midstate Medical Center and Windham Hospital. We have over 2200 physicians on our medical staffs providing care throughout the state. I am here today to comment on HB 6687 An Act Concerning Certificate of Merit. This bill is poor public policy which will adversely affect the well-being of Connecticut citizens.

First, HB 6687 would weaken legislation passed in 2005 by changing the expert witness from a “similar healthcare provider” to a “qualified healthcare provider.” This represents an important change which means that the professional providing the certificate of merit is not assured of having any knowledge of the nature of the alleged deviation from the standard of care. In the majority of malpractice actions, the nature of the deviation is of a highly technical nature – as a surgeon, if I were sued, I would fully expect that the certificate of merit be provided by another surgeon who would understand how surgery is conducted. By weakening the statute, this would allow cases without merit to proceed.

Second, by allowing cases to proceed without attestation of their merit by a bona fide expert, the costs to the entire system would increase. Malpractice insurance costs would increase because of the need to defend more cases, even those without merit. Hartford HealthCare manages an offshore captive malpractice insurance company. We invest a large sum every year to improve patient quality and safety as the surest way to prevent allegations of malpractice. We believe that “risk management” and patient safety” are two sides of the same coin. Increasing malpractice defense expenses would decrease our ability to fund these important investments in patient safety. From the standpoint of the State of Connecticut, allowing these capricious cases to go forward would increase the administrative expenses of the Judicial Branch without any benefit to the citizens.

Third, this bill represents poor health care policy because it lowers the threshold for bringing a malpractice action. The greatest cost to our healthcare system caused by malpractice is not the legal expense or claims paid, but the cost of defensive medicine. Physicians react to an uncertain and threatening malpractice climate by practicing defensively – ordering tests which may not be necessary to better support their reasoning for a clinical decision. The unnecessary testing increases the cost of medicine which is ultimately reflected in healthcare costs to employers and insurers. Increases in these costs have an adverse effect on the business climate in the state and can discourage job growth or the relocation of businesses to Connecticut.

Fourth, by increasing the likelihood of malpractice claims, HB 6687 would make it more difficult to provide care in our emergency rooms, particularly at our community hospitals. While the large urban teaching hospitals will be able to continue to provide comprehensive call coverage despite this, the small and medium sized community hospitals will have increasing difficulty in assuring access to emergency care by specialists. At our community hospitals, we

depend upon the dedication of physicians who volunteer to take call. An adverse malpractice environment results in these doctors withdrawing from offering this coverage because the risk of a lawsuit is known to be greater when providing emergency care. The net result will be decreased access to specialty care in communities resulting in inconvenience at best and clinically significant treatment delays at worst.

This proposal would increase healthcare costs, administrative costs and decrease access to care. I strongly urge all of the members of the Judiciary committee to oppose HB 6887 concerning certificates of merit. Thank you for your consideration and time.